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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,759	07/01/2003	John McFarland Harris	CE09392R	2160
22917	7590	06/28/2007		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			EXAMINER AGHDAM, FRESHTEH N	
			ART UNIT 2611	PAPER NUMBER
			NOTIFICATION DATE 06/28/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com
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Office Action Summary

Application No.

10/611,759

Applicant(s)

HARRIS ET AL.

Examiner

Freshteh N. Aghdam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8,12-14,16 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-7,9-11,15,18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 8, 14, 17, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin (US 6,782,059).

As to claim 1, Lin discloses a method of and/ or an apparatus for use in identifying a frame type of one or more frames wirelessly communication, comprising: receiving a wireless communication containing a frame having a plurality of bearer bits (Abstract); determining when the frame passes a predefined quality parameter (Fig. 1, means 310); analyzing at least a portion of the bearer bits within the frame by comparing the portion of the bearer bits with at least one of a predefined threshold and an expected pattern when the frame does not pass the predefined quality parameter

(means 360); and determining when the frame is an erased frame based on the analyzing of the portion of the bearer bits within the frame (means 364).

As to claims 8 and 17, Lin discloses a method of and/ or an apparatus for use in identifying a frame type of one or more frames wirelessly communication, comprising: receiving a wireless communication containing a frame having a plurality of bearer bits (Abstract); determining when the frame passes a predefined quality parameter (Fig. 1, means 310); analyzing at least a portion of the bearer bits within the frame by comparing the portion of the bearer bits with at least one of a predefined threshold and an expected pattern when the frame does not pass the predefined quality parameter (means 360); determining when the at least the portion of the bits analyzed at least one of exceeds the threshold and is not recognized by the expected pattern (means 360); and identifying the frame as a discontinuous transmission (DTX) when the analyzing of the at least the portion of the bits fails to at least one of exceed the threshold and recognize the expected pattern (means 362).

As to claim 14, Lin further discloses identifying the frame as an erased frame when the at least the portion of the bits analyzed exceeds the threshold (means 360 and 364); and controlling a power when the frame is identified as an erased frame (Col. 11, lines 13-32).

As to claim 20, Lin further discloses a base transceiver station comprising the transceiver, the frame error code decoder, the frame type determination device and the frame type verification device (Col. 3, lines 48-51; Fig. 2, means 250).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin.

As to claim 11, Lin discloses receiving a plurality of wireless communication signals (e.g. signal paths) each containing the frame having the plurality of bits (Fig. 2, means 200); selecting at least one of the plurality of received signals (means 224a-224c; Col. 6, lines 13-18); and determining when the frame of the selected one of the plurality of communication signals satisfies the quality check (means 250; Fig. 3, means 310). One of ordinary skill in the art would recognize that in the case when there is no distinct path only one of the paths is selected for frame type detection and ultimately for power control outer loop. Therefore, it would have been obvious to one of ordinary skill in the art to at least select one communication signal from a plurality of the received signals for the reason stated above.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin, and further in view of Hocevar (US 2007/0011568).

As to claims 12-13, Lin discloses receiving the same signal transmitted from a transmitting device through different paths. Lin is not explicit about receiving a plurality of the signal; and determining when there is a difference between the bit values for the

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first bit of each of the frames from plurality of wireless communications; determining when there is a majority bit value of the first bit having values found to be different; assigning the majority bit value to the first bit when the first bits from each of the frames of each of the wireless communication paths are found to be different; and regenerating the frame such that the first bit has the majority bit value when the first bit from each of the wireless communication paths are found to be different. Hocevar discloses transmitting the same signal a number of times (e.g. achieving diversity and receiving a plurality of the same signal); and performing majority voting by comparing bits of a plurality of the same signals and when there is a difference between bit values for the plurality of bits of each of the signals assigning the majority bit value to the bits found to be different and regenerating the signal consequently (Par. 7). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teaching of Hocevar with Lin in order to effectively reduce the error rate and enhance data integrity.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin, and further in view of Lin et al (US 6,731,606).

As to claim 16, Lin discloses all the subject matter claimed in claim 8, except for maintaining a previous transmit power level when the frame is identified as a DTX. Lin et al discloses a power control loop for communication channels with discontinuous transmission (DTX) comprising maintaining a previous transmit power level when the frame is identified as a DTX (Col. 4, lines 61-62) in order to obtain optimum quality of

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service. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teaching of Lin et al with Lin for the reason stated above.

Allowable Subject Matter

Claim 2-7, 9-11,15,18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Meyers et al (US 7,224,993) is directed to the subject matter claimed in claims 2-5 see figure 1; Butala et al (US 2005/0276748) is directed to the subject matter claimed in claims 6-7 see paragraph 81; Lin et al (US 2003/0142632) see figures 3A-3D; and Harris et al (2003/0033568).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freshteh N. Aghdam whose telephone number is 571-272-6037. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


KEVIN BURD
PRIMARY EXAMINER

Freshteh Aghdam
Examiner
Art Unit 2611

June 18, 2007